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Paper No. 9

Agilent Technologies
Legal Department 51U PD
Intellectual Property Administration
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OFFICE OF PETITIONS

In re Application of

Schneider, et al.

Application No. 09/680,726

Filed: October 5, 2000

Attorney Docket No. 10004229-1

DECISION ON

PETITION

This is a decision on the petition under 37 CFR §1.137(b), February 4, 2004, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

The above-identified application became abandoned for failure to reply to the final Office action mailed May 21, 2003, which set a statutory period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on August 22, 2003.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any

portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

- (2) the petition fee as set forth in 37 CFR 1.17(m);
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
- (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

As to item (1), the amendment filed February 4, 2004, that is responsive to the final Office action did not place the application in condition for allowance, as determined by Examiner Jose Diaz. With any renewed petition filed, petitioner must file either an amendment that places the application in condition for allowance, or a Request for Continued Examination, or a Notice of Appeal.

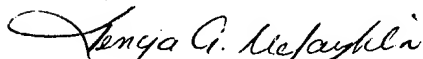
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 United States Patent and Trademark Office
 Box 1450
 Alexandria, VA 22313-1450

By facsimile: (703) 872-9306

By hand: Office of Petitions
 2201 South Clark Place
 Crystal Plaza 4, Suite 3C23
 Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.


Kenya A. McLaughlin
Petitions Attorney
Office of Petitions